



THIS MASTER SERVICE AGREEMENT CONTAINS TERMS, CONDITIONS AND PROVISIONS THAT OPERATE TO SURRENDER OR OTHERWISE MODIFY THE LEGAL RIGHTS AND OBLIGATIONS OF THE PARTIES, INCLUDING INDEMNIFICATION, RELEASE OF LIABILITY AND ALLOCATION OF RISK.

MASTER SERVICE AGREEMENT

This MASTER SERVICE AGREEMENT (hereinafter referred to as the "Agreement"), effective as of this 19th day of June, 2017, is by and between ~~TIER ONE LLC~~, a limited liability company (hereinafter referred to as "COMPANY"), and KSW Oilfield Rental, LLC, a Texas limited liability company, (Contractor Name) (State & Entity Structure (if applicable))

whose address is 6934 S. 60th E. Ave, Suite 105, Tulsa, OK 74133 (Contractor Address)

(Hereinafter referred to as "CONTRACTOR").

WITNESSETH:

WHEREAS, COMPANY is engaged in numerous business activities, including, but not limited to, the drilling and operating of exploratory and development wells, producing and gathering oil, gas and other minerals for itself and for the account of others, and activities related thereto; and

WHEREAS, COMPANY desires to (i) utilize the services of CONTRACTOR from time to time in connection with its business activities and/or (ii) purchase or rent goods, equipment, or facilities from CONTRACTOR.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

I. RELATIONSHIP WITH CONTRACTOR - PURCHASE OF SERVICES AND/OR GOODS

COMPANY may (i) utilize the services of CONTRACTOR from time to time, including, but not limited to services in connection with the construction and/or operation of properties and facilities for exploration of, or the development or production of, oil, gas, or other minerals and other activities directly or indirectly related thereto, and/or (ii) purchase or rent goods, equipment, or facilities from CONTRACTOR. The work and services to be performed by CONTRACTOR for COMPANY may include, but shall not be limited to, the following:

While CONTRACTOR shall have complete control over the detail, manner, and method of performing the work and services performed hereunder, it is understood that such performance by

Tier One LLC MSA Master

EXHIBIT B



CONTRACTOR is subject to COMPANY'S right of inspection and approval as to the result of such performance or the product thereof.

CONTRACTOR shall submit from time to time such written reports, programs, conclusions, recommendations, and other material about CONTRACTOR'S work plans, progress, or results relating to the work and services performed hereunder, as COMPANY may request, and shall comply with all accounting and/or operating instructions which COMPANY may give in connection with costs, expenses, financial settlements, and billings rendered under this Agreement.

Unless CONTRACTOR and an authorized officer of COMPANY hereto specifically agree in writing otherwise, this Agreement shall control and govern all work and services performed by CONTRACTOR for COMPANY and shall be deemed to be incorporated in full in every subsequent oral and/or written work order or purchase voucher.

This Agreement may be canceled at the option of either party by giving the other party thirty (30) days written notice to that effect, but neither party hereto shall, by the termination of this Agreement, be relieved of its respective obligations and liability arising out of, or incident to, work and services performed hereunder, or requested by COMPANY and agreed to by CONTRACTOR prior to the time this Agreement is terminated, except as provided in Section 2 below. The work and services to be performed will be as requested by COMPANY and directed to CONTRACTOR. Time is expressly declared to be of the essence in this Agreement.

2. REQUEST FOR SERVICES AND/OR GOODS BY COMPANY

Each job shall be the subject of an order for work issued by COMPANY to CONTRACTOR (hereinafter the "Work Order"). The Work Order will be either oral or written (provided that the COMPANY may, but shall not be obligated to confirm an oral order in writing, including through e-mail), and provide, where applicable, a description of the services and/or goods, equipment or facilities desired, the consideration to be paid for the same, the job location, equipment, services, supplies, and personnel to be provided by CONTRACTOR, and the items to be furnished by COMPANY. If the Work Order is in writing, it may be in a form similar to one of the forms attached as Exhibit D or any other form used by the COMPANY. Nothing in any Work Order, whether written or oral, shall modify or change the terms contained in this Agreement, which shall at all times govern and control. Although COMPANY may from time to time sign CONTRACTOR's field tickets, forms for receipts, acknowledgments, documentation, terms of service or similar items, the terms and conditions associated with such forms (by whatever title) shall not amend, modify, waive or release any aspect of this Agreement or any Work Order. Upon receipt of a Work Order, CONTRACTOR will commence furnishing the same at the agreed upon time and continue such operations diligently, in accordance with applicable laws and regulations, without delay, in a good and workmanlike manner, in accordance with good engineering and industry practices, with the care and skill which an ordinarily prudent service provider with CONTRACTOR'S level of experience would exercise under similar circumstances, and in strict conformity with the specifications and requirements contained herein and in any related work order or purchase voucher.



The term of any Work Order shall begin on the date that the Work Order is accepted and shall continue through the earlier of: (i) the termination date provided in the Work Order, (ii) the completion of all work and services to be performed under the Work Order or delivery and acceptance of all goods thereunder, (iii) the suspension of the Work Order (as provided below), or (iv) the termination of the Work Order (as provided below).

Any alteration, deletion or addition to services or goods in any Work Order or a change in any provision(s) of any Work Order shall be effective only if made in a change order ("Change Order") executed in writing by COMPANY and CONTRACTOR or orally ordered by COMPANY with written confirmation promptly thereafter.

COMPANY may suspend at any time and for any reason services or work under a Work Order in whole or in part by notice to CONTRACTOR, and CONTRACTOR shall promptly comply. COMPANY may, at any time, authorize CONTRACTOR to resume any part of the suspended Services or work by notice to CONTRACTOR and CONTRACTOR shall promptly resume the specified services or work. In the event services are suspended, subject to the other provisions of this Agreement, COMPANY shall pay CONTRACTOR for services performed and obligations incurred up to and including the effective date of suspension.

COMPANY, in its sole discretion, may terminate the work or services being performed by CONTRACTOR hereunder, whether such work or services were commenced under oral or written work orders or purchase orders. The termination of such order shall not cancel the Agreement and CONTRACTOR shall receive its normal compensation pursuant to Section 6 of this Agreement, prorated to the actual hour of termination, for work completed prior to such termination, and reasonable subsistence and travel costs for the remainder of the business day.

3. NO OBLIGATION TO PROVIDE OR PURCHASE GOODS AND/OR SERVICES

This Agreement does not obligate COMPANY to order work and/or equipment or materials from CONTRACTOR, nor does it obligate CONTRACTOR to accept such orders, but it, together with all applicable Work Orders, shall control and govern all work and services accepted by CONTRACTOR and shall define the rights and obligations of COMPANY and CONTRACTOR during the term hereof.

4. CONFIDENTIALITY

Information obtained by CONTRACTOR in the conduct of work or services performed under this Agreement, including, but not by way of limitation, all work-related information, title information, areas of interest, maps, letters, memoranda, information concerning depth, formations penetrated, engineering procedures, the results of coring, testing, and surveying, all other information provided by COMPANY or obtained on behalf of the COMPANY, and all other materials, plans, and negotiations with third parties concerning the work and services contemplated hereunder ("Confidential Information"), shall be considered confidential and shall not be divulged by CONTRACTOR, its Affiliates or CONTRACTOR's or its Affiliates' directors, officers, members, partners, employees, agents, representatives or subcontractors ("CONTRACTOR's



REPRESENTATIVES”) to any person or entity other than designated representatives of COMPANY without the written permission of COMPANY, or any person designated in writing by the COMPANY (hereinafter referred to as “COMPANY’s AUTHORIZED REPRESENTATIVE”). Nothing hereinabove contained shall prohibit CONTRACTOR from disclosing any information: (i) which is, at the time of disclosure, known to the trade or the public through no fault of CONTRACTOR; (ii) which is possessed by CONTRACTOR without any obligation of confidentiality before receipt thereof from COMPANY; or (iii) which is disclosed to CONTRACTOR in good faith by a Third Party who has an independent right to such information and who is under no obligation of confidentiality to COMPANY; or (iv) which CONTRACTOR is required to disclose under applicable law, provided CONTRACTOR shall use its best efforts to provide timely notice to COMPANY of such required disclosure in order to permit COMPANY to seek a protective order or other appropriate relief. If COMPANY is unable to obtain such protective order or other appropriate remedy, CONTRACTOR, CONTRACTOR’s REPRESENTATIVES shall furnish only that portion of Confidential Information which CONTRACTOR’s REPRESENTATIVES are advised in writing by CONTRACTOR REPRESENTATIVE’s outside legal counsel is required by law to be furnished and shall exercise their reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

5. DELIVERY TICKETS

Delivery tickets covering any material or supplies furnished by vendors and chargeable to COMPANY at any job performed hereunder shall be turned into the office of COMPANY each day at the job site or at such other office as shall be designated by COMPANY together with CONTRACTOR’s work ticket, which shall indicate the work location. The quantity, description, and condition of materials and supplies so furnished shall be checked by CONTRACTOR or by CONTRACTOR’s representative, and the tickets shall be properly certified by CONTRACTOR or by CONTRACTOR’s representative. Upon receipt of such delivery tickets, a representative of COMPANY shall review such tickets and acknowledge the receipt of them, in writing, if satisfactory; provided that in no event shall such acknowledgment be deemed to be an acknowledgment by the COMPANY of the quality or condition of such materials or supplies.

6. TERMS OF PAYMENT

COMPANY shall pay CONTRACTOR for work performed or services rendered hereunder (i) in accordance with CONTRACTOR’s published schedule of rates and/or prices, as such rates and/or prices are in effect on the date on which the services are rendered by CONTRACTOR or the goods or equipment are ordered by COMPANY, or (ii) at such other rates and/or prices as are agreed to in writing by CONTRACTOR and COMPANY prior to commencement of work or services hereunder. CONTRACTOR shall furnish COMPANY a copy of any revisions to the schedule in effect on the date of this Agreement at least thirty (30) days prior to the proposed effective date of such revisions. It is agreed that invoices delivered to COMPANY hereunder shall not contain any other terms and conditions relating to matters other than rates and fees. Unless otherwise specified in the scheduled price, the rates quoted and charged by CONTRACTOR for the performance of work or services shall be inclusive of all costs of materials or supplies furnished by



CONTRACTOR for use in the work or services and any costs of transportation of tools, equipment, and labor or time required to transport tools, equipment, and labor to and from the jobs.

7. TIME OF INVOICING PAYMENT

CONTRACTOR shall bill COMPANY NO LATER THAN AT THE END OF EACH MONTH, UNLESS OTHERWISE AGREED TO IN WRITING BY CONTRACTOR AND AN AUTHORIZED OFFICER OF COMPANY. Payment of all undisputed amounts shall be made by COMPANY by the later of (i) ninety (90) days after receipt by COMPANY of CONTRACTOR's invoice or (ii) CONTRACTOR's performance of the work or services to Company's satisfaction in accordance with the terms, conditions, and requirements of this Agreement and applicable work orders or purchase vouchers. CONTRACTOR hereby acknowledges that any invoice not presented to COMPANY within 180 days after the goods or services were provided will be deemed null and void.

Prior to payment, the COMPANY may require CONTRACTOR to provide adequate proof that satisfactory provision has been made for the payment of any and all claims for damages, labor, materials, or supplies which CONTRACTOR may have incurred or become liable for by reason of its delivery of goods and/or performance of services.

Further, if, upon the completion of the services or delivery of goods prescribed pursuant to this Agreement, COMPANY has cause to believe that CONTRACTOR'S obligations to vendors or subcontractors under this Agreement remain unsatisfied, CONTRACTOR will furnish, upon COMPANY'S request, proof satisfactory to COMPANY that such obligations are satisfied or discharged. Until proof satisfactory to COMPANY is delivered to COMPANY, COMPANY may offset and withhold amounts due and owing CONTRACTOR to secure payment of any such obligations and or the indemnification set forth below.

Notwithstanding anything herein to the contrary, COMPANY may offset and withhold from any payments due under any invoice (i) any previous payments to CONTRACTOR which relate to, or directly concern, the obligations covered by the invoice; (ii) any portion of the invoiced amount which is incorrectly prepared, insufficiently documented, or otherwise disputed by COMPANY; and (iii) any other payments due by CONTRACTOR to COMPANY, including pursuant to Section 8(c), Section 13, and Section 15, regardless of whether such payments are due under this Agreement.

8. STANDARD OF PERFORMANCE

- (a) CONTRACTOR shall, at CONTRACTOR's sole cost and expense, furnish supervision, labor, equipment, machinery, tools, materials, and supplies necessary for the performance of the work or services herein contemplated in a diligent and workmanlike manner. CONTRACTOR represents that it has adequate equipment in good working order and fully trained personnel capable of efficiently and safely operating such equipment and capable of performing services and work for COMPANY. In the event that materials and equipment are furnished by



COMPANY and directly employed in the course of the operations conducted hereunder, CONTRACTOR agrees to inspect all such materials and equipment and shall notify COMPANY of any apparent defects therein before using such materials and equipment. Should CONTRACTOR use such materials and equipment without notifying COMPANY of any defect, CONTRACTOR shall be deemed to have assumed all risk and liability for any mishap that may occur in operations conducted hereunder by reason of failure or defects in such materials and equipment.

- (b) CONTRACTOR shall at all times keep the work site free from the accumulation of debris and rubbish that may result from its performance of the work or services. CONTRACTOR shall use its best efforts to prevent pollution in performing work or services under this Agreement; including without limitation, best efforts to prevent the discharge or escape of trash, waste, oil, radioactive sources or other pollutants from CONTRACTOR'S equipment. CONTRACTOR shall, at CONTRACTOR'S sole cost and expense, clean up any such pollution caused by CONTRACTOR, its subcontractors or its or their employees or agents in the performance of this Agreement, and shall be responsible for any necessary reporting of such and coordinating with the COMPANY and agencies or other governmental authorities having jurisdiction. CONTRACTOR agrees to defend, release, indemnify and hold COMPANY Group harmless from any and all Claims, judgments, losses, expenses and any costs related thereto, including attorneys' fees, court costs, investigation costs and all other costs of defense, whatsoever arising from any failure by CONTRACTOR to comply with this Section 8(b).
- (c) At the completion of the work or services, CONTRACTOR shall remove all of its tools, vehicles, equipment, machinery, surplus materials, debris and rubbish from and around the work site. In the event that, according to the nature of work performed, COMPANY is to maintain possession of certain materials after the completion of said work or services, CONTRACTOR will consult with an authorized COMPANY representative to determine the appropriate site for storing excess or unused material. If CONTRACTOR fails to remove its material and equipment and clean up the worksite within two days after completion of the applicable work or services or within 12 hours after it receives a written request from COMPANY, COMPANY will have the right to remove the materials and equipment and clean up the worksite at CONTRACTOR'S cost and expense and may deduct such costs from any sums that COMPANY owes CONTRACTOR.
- (d) The parties hereto recognize that in providing the work and services contemplated hereunder, CONTRACTOR is supplying professional services, findings, and/or recommendations in performing services hereunder. CONTRACTOR warrants that its performance will be in accordance with applicable laws, regulations, and recognized standards of good practice utilized by reputable firms providing services or products of the types specified in Section 1 or the applicable work or purchase order.



9. **SAFETY**

- (a) CONTRACTOR covenants that all work and services performed by it hereunder shall be conducted in accordance with all applicable safety regulations, precautions, and procedures and shall employ all protective equipment and devices required by governmental authorities, or reasonably recommended by industry safety associations. CONTRACTOR shall take any and all necessary and appropriate precautions to protect its, and its subcontractors, and its and their employees and agents, COMPANY's employees and representatives, visitors, the general public, any public or private property, the environment, and natural resources with respect to any work or services to be performed hereunder.
- (b) CONTRACTOR covenants and represents that all work and services performed by it, and its subcontractors, and its and their employees and agents, shall comply with all applicable safety regulations and all of the safety policies of the COMPANY, and shall maintain full compliance throughout the term of this Agreement; provided however that the requirements with respect to such regulations and policies CONTRACTOR is obligated to comply pursuant to this Section 9(b) shall be at least equal to the Minimum Contractor Safety Requirements, as set forth in Exhibit C, which may be amended by COMPANY from time to time, in its sole discretion.
- (c) Any breach of the safety covenants herein, or in Exhibit C, shall be grounds for COMPANY's immediate termination of this Agreement and removal of CONTRACTOR from COMPANY location.

10. **WARRANTIES AND GUARANTEES**

- (a) CONTRACTOR guarantees and warrants the work to be performed hereunder against any and all defects for a period of twelve (12) months after CONTRACTOR's completion of the work. CONTRACTOR agrees to repair, replace, and correct any and all such defects in the work that become apparent and are called to CONTRACTOR's attention prior to the expiration of the warranty period at CONTRACTOR's sole cost and expense, which shall include, without limitation, all costs associated with performing such repairs, replacements, or corrections, if necessary.
- (b) All materials, equipment, supplies, or manufactured articles furnished or used by CONTRACTOR in the performance of the work or services shall be the best quality for their respective purposes as are available for the price paid by COMPANY and shall be free from all defects. In addition to the guarantees and warranties set forth in Section 10(a) above, CONTRACTOR agrees to use reasonable efforts to obtain from Third Party suppliers and manufacturers the best available warranties and guarantees and where possible to assign the same to COMPANY and to cooperate with COMPANY in the enforcement of such warranties and guarantees. If prior to the end of the twelve (12) month period provided in Section 10(a) above, it is



discovered that defective material or equipment furnished by Third Party manufacturers or suppliers have been incorporated into the work, CONTRACTOR shall repair or replace such items at CONTRACTOR's cost (except as otherwise provided in said Section 10(a)), with no reimbursement therefor from COMPANY. If defective material or equipment furnished by Third Party manufacturers and suppliers is discovered after the twelve (12) month period provided in Section 10(a) above, and such material or equipment is covered by a warranty or guaranty from such Third Party manufacturer or supplier, CONTRACTOR agrees to assist COMPANY in obtaining repairs or replacements from such manufacturer and/or supplier.

11. **INDEPENDENT CONTRACTOR**

- A. CONTRACTOR shall be an independent contractor with respect to the performance of all work and services hereunder, and neither CONTRACTOR, nor anyone employed by CONTRACTOR, shall be deemed for any purpose to be the employee, agent, servant or representative of COMPANY in the performance of any work or services, or part thereof, in any matter dealt with herein. COMPANY shall have no direction or control of CONTRACTOR or its employees, agents or subcontractors, except in the results to be obtained. The work contemplated herein shall meet the approval of COMPANY and be subject to the general right of inspection by COMPANY to secure the satisfactory completion thereof. The actual performance and supervision of all work and services contemplated herein shall be by CONTRACTOR, but COMPANY or its representatives shall have reasonable access to the operations to determine whether the work and services being performed by CONTRACTOR are in accordance with all provisions of this Agreement and applicable work and purchase orders.
- B. CONTRACTOR shall primarily be responsible for and shall pay for all workers' compensation benefits to any of CONTRACTOR's employees. Neither CONTRACTOR nor any agent, officer, director, member, manager, partner or employee of CONTRACTOR shall be an agent of COMPANY for any purpose. Neither COMPANY nor any agent, officer, director, member, manager, partner or employee of COMPANY shall be an agent of CONTRACTOR for any purpose. Neither CONTRACTOR nor COMPANY has any authority to bind the other in any manner whatsoever with respect to any Third Party.
- C. In the event that any employee of COMPANY owns a financial interest (whether directly or indirectly, beneficial or of record) in CONTRACTOR, CONTRACTOR shall, promptly (but in no event later than 5 days upon obtaining knowledge of such interest) disclose such interest to COMPANY; provided however, that in the event CONTRACTOR is a publicly traded company, the provisions of this Section 11.C shall only apply to the extent the financial interest of such employee is greater than 1% of the aggregate number of publicly traded securities of CONTRACTOR.

12. **CONTRACTOR'S PERSONNEL**



CONTRACTOR shall not employ in any work or services for COMPANY any employee whose employment violates applicable labor laws. CONTRACTOR agrees that COMPANY reserves the right to deny access to its property or facilities to any employee of CONTRACTOR. CONTRACTOR further agrees that upon request by COMPANY, CONTRACTOR will, at CONTRACTOR's sole cost and expense, remove from COMPANY's property or facilities any employee of CONTRACTOR. Notwithstanding the above, COMPANY and CONTRACTOR agree that COMPANY shall have no right to terminate, discharge, discipline, or affect any other term or condition of employment of any employee of CONTRACTOR. Any decision to terminate, discharge, discipline, or otherwise affect any other term or condition of employment of any employee of CONTRACTOR shall be the sole act of CONTRACTOR and COMPANY shall have no liability therefor. CONTRACTOR agrees and covenants that should any employee or former employee of CONTRACTOR assert any claim or cause of action against COMPANY arising out of COMPANY's denial of access to such employee or COMPANY's request that CONTRACTOR remove such employees from COMPANY's property or facility, then CONTRACTOR shall indemnify, defend, and hold harmless COMPANY Group from all such claims and causes of action.

13. PROTECTION FROM LIENS/SATISFACTION OF DEBTS

CONTRACTOR agrees to timely pay all or any of its subcontractor's, material's, laborer's and vendor's claims for labor, materials, and supplies furnished by CONTRACTOR hereunder, and, subject to COMPANY's payment of undisputed amounts due CONTRACTOR hereunder, to allow no lien, encumbrance or charge to become fixed upon any property of COMPANY or any indemnified party. Without limiting the provisions of Section 7, in the event of any such charge or lien, COMPANY shall have the right to withhold payment from CONTRACTOR of an amount sufficient to satisfy such charge or lien. CONTRACTOR shall furnish to COMPANY, at COMPANY'S request, documentation reasonably satisfactory to COMPANY that there are no unsatisfied claims for labor or material or supplies. CONTRACTOR agrees to be fully responsible for and to indemnify, release, protect, defend and hold COMPANY Group harmless from and against all such Claims, and charges arising in connection with such liens. If CONTRACTOR shall fail or refuse to pay claims or indebtedness incurred by CONTRACTOR in connection with the work or services performed hereunder, COMPANY shall have the right to pay any such claims or indebtedness and it may offset the amount of the lien together with damages, costs, and expenses including court costs and attorneys' fees that it incurs because of the lien or its discharge against any payment owing or to be owed to CONTRACTOR. Notwithstanding the foregoing, COMPANY agrees that it will not pay any such claim or indebtedness as long as same is being actively contested in good faith by CONTRACTOR and CONTRACTOR has taken all actions necessary (including the posting of a bond when appropriate) to protect the property interest of COMPANY and any other party actually or potentially affected by such claims or indebtedness.

Without limiting the foregoing, CONTRACTOR will promptly pay and discharge all debts, charges, taxes, or other obligations connected in any way to its performance under this Agreement. Said obligations include, but are not limited to, those arising from pension laws, Equal Employment Opportunity Laws and unemployment laws, including payment of all contributions legally due or payable as a result of any governmental or private pension or profit-sharing plans.



14. COMPLIANCE WITH LAWS

CONTRACTOR agrees to comply with all laws, rules, and regulations, whether federal, state, municipal, or foreign, which are now, or may in the future, become applicable to the CONTRACTOR, CONTRACTOR's business, equipment, and personnel engaged in the operations covered by this Agreement, or occurring out of the performance of such operations. In addition, CONTRACTOR agrees to comply with the Federal Contract Provision attached hereto and made a part hereof as Exhibit A. CONTRACTOR agrees to indemnify the COMPANY Group from and against any fines, penalties, damages, demands, losses, claims, suits, judgments, expenses (including reasonable attorney's fees or any other expenses) or causes of action arising out of the failure of CONTRACTOR, its subcontractors or its or their employees or agents to comply with all applicable laws, rules, and regulations, whether federal, state, municipal or foreign WHETHER OR NOT RESULTING FROM THE SOLE, JOINT, AND/OR CONCURRENT NEGLIGENCE OR FAULT AND/OR ANY CLAIM OF STRICT LIABILITY OF THE COMPANY GROUP AND/OR ANY CAUSE WHATSOEVER, WHETHER PREDATING THIS AGREEMENT OR NOT.

15. TAXES

CONTRACTOR further agrees to pay all taxes, licenses, and fees levied or assessed on CONTRACTOR in connection with, or incident to, the performance of this Agreement by any governmental agency; including, without limitation, unemployment compensation insurance, old age benefits, social security, or any other taxes upon wages of CONTRACTOR, its agents, employees, and representatives. CONTRACTOR agrees to reimburse COMPANY on demand for all such taxes or governmental charges that COMPANY may be required, or may deem it necessary, to pay on account of employees of CONTRACTOR or its subcontractors. CONTRACTOR agrees to furnish COMPANY with the information required to enable it to make the necessary reports and pay such taxes or charges. At its election, COMPANY is authorized to deduct all sums so paid for such taxes and governmental charges from such amounts as may be, or may become, due to CONTRACTOR hereunder.

The terms of payments as stated in Section 6 of this Agreement shall cover and include CONTRACTOR's entire compensation for payment of all taxes, fees, and charges incurred or incident to the performance of services and/or materials furnished by CONTRACTOR, and/or exacted, levied, or assessed by any government, and no additional amount will be paid to CONTRACTOR for, or on account of, CONTRACTOR's payments of, or liability for, any such taxes, fees, and charges; provided, however, that COMPANY shall be liable for and shall pay any property sales and use and any other similar taxes levied on materials to be furnished by COMPANY, or for goods or equipment ordered by the COMPANY under this Contract.

16. INDEMNIFICATION

- (a) For the purpose of this Agreement,



- (i) "Affiliates" as used herein shall mean any entity which controls, is controlled by, or is under common control with another entity. An entity is deemed to "control" another if it owns (directly or indirectly) at least fifty percent (50%) of (1) the shares entitled to vote at a general election of directors of such other entity, or (2) the voting interest in such other entity if such entity does not have either shares or directors.
- (ii) "Claims" shall include, without limitation, any and all demands, claims, losses, damages, costs, judgments, expenses, causes of action, suits and liabilities of every kind (including all expenses of litigation, court costs and reasonable attorneys' fees), whether in law or equity and whether arising in tort, contract, strict liability, under statute, or of any other character whatsoever.
- (iii) "COMPANY Group" shall mean (1) COMPANY and its Affiliates, (2) COMPANY's co-lessees, co-license holders, joint venturers and any of their respective Affiliates, and (3) the directors, officers, employees, representatives, invitees and agents of any entities described in parts (1) and (2) of this definition (excluding any member of CONTRACTOR Group).
- (iv) "CONTRACTOR Group" shall mean (1) CONTRACTOR and its Affiliates, and its and their respective contractors and subcontractors, and (2) the directors, officers, employees, representatives, invitees and agents of any entities described in part (1) of this definition (excluding any member of COMPANY Group).
- (v) "Group" shall mean CONTRACTOR Group or COMPANY Group, as applicable.
- (vi) "Third Party" shall mean a person other than any member of COMPANY Group or any member of CONTRACTOR Group.
- (b) EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, COMPANY SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS CONTRACTOR GROUP FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT BY OR ON BEHALF OF ANY MEMBER OF COMPANY GROUP FOR (i) ANY LOSS OF OR DAMAGE TO REAL OR PERSONAL PROPERTY (OTHER THAN SUCH PROPERTY CONSTITUTING WORK) OF (INCLUDING OWNED, RENTED, CHARTERED, BORROWED, LEASED, OR OPERATED BY OR IN THE CONTROL OF) ANY MEMBER OF COMPANY GROUP OR (ii) ANY PERSONAL INJURY, BODILY INJURY, ILLNESS OR DEATH SUFFERED BY ANY MEMBER OF COMPANY GROUP, IN EACH CASE, ARISING OUT OF OR RELATING TO, WHETHER DIRECTLY OR INDIRECTLY, THE WORK OR ANY OPERATIONS HEREFUNDER, REGARDLESS OF WHETHER DUE OR ALLEGEDLY DUE TO THE



NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), FAULT, BREACH OF LEGAL DUTY, OR STRICT LIABILITY OF CONTRACTOR GROUP, OR ANY OTHER THEORY OF LEGAL LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED IN THIS SECTION 16(b) TO THE CONTRARY, COMPANY SHALL NOT BE LIABLE TO CONTRACTOR GROUP TO THE EXTENT OF CLAIMS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY ANY MEMBER OF CONTRACTOR GROUP.

- (c) EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CONTRACTOR SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT BY OR ON BEHALF OF ANY MEMBER OF CONTRACTOR GROUP FOR (i) ANY LOSS OF OR DAMAGE TO REAL OR PERSONAL PROPERTY OF (INCLUDING OWNED, RENTED, CHARTERED, BORROWED, LEASED, OR OPERATED BY OR IN THE CONTROL OF) ANY MEMBER OF CONTRACTOR GROUP OR (ii) ANY PERSONAL INJURY, BODILY INJURY, ILLNESS OR DEATH SUFFERED BY ANY MEMBER OF CONTRACTOR GROUP, IN EACH CASE, ARISING OUT OF OR RELATING TO, WHETHER DIRECTLY OR INDIRECTLY, THE WORK OR ANY OPERATIONS HEREUNDER OR THE OCCUPANCY OF COMPANY'S FIELD PREMISES, REGARDLESS OF WHETHER DUE OR ALLEGEDLY DUE TO THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), FAULT, BREACH OF LEGAL DUTY, OR STRICT LIABILITY OF COMPANY GROUP, OR ANY OTHER THEORY OF LEGAL LIABILITY. NOTWITHSTANDING ANYTHING CONTAINED IN THIS SECTION 16(c) TO THE CONTRARY, CONTRACTOR SHALL NOT BE LIABLE TO COMPANY GROUP TO THE EXTENT OF CLAIMS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY ANY MEMBER OF COMPANY GROUP.
- (d) SUBJECT TO THE FOREGOING SECTIONS 16(b) and 16(c), EACH PARTY SHALL BE RESPONSIBLE FOR AND SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY (AND ALL MEMBERS OF SUCH PARTY'S GROUP) FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT BY OR IN FAVOR OF THIRD PARTIES ON ACCOUNT OF PERSONAL INJURY, BODILY INJURY, ILLNESS, DEATH, OR DAMAGE TO OR LOSS OF PROPERTY, IN EACH CASE, ARISING OUT OF OR RELATING TO, WHETHER DIRECTLY OR INDIRECTLY, THE WORK OR ANY OPERATIONS HEREUNDER AND TO THE EXTENT OF EACH PARTY'S OWN RESPECTIVE LEGAL LIABILITY.
- (e) THE PARTIES HERETO DO NOT INTEND THIS AGREEMENT TO BE CONSTRUED AS A "CONSTRUCTION CONTRACT" UNDER THE PROVISIONS OF OHIO REV. CODE ANN. § 2305.31. IF THIS AGREEMENT



IS CONSTRUED AS A "CONSTRUCTION CONTRACT" WITHIN THE MEANING OF OHIO REV. CODE ANN. § 2305.31 BY A COURT OF COMPETENT JURISDICTION, THEN THE INDEMNITIES PROVIDED IN THIS SECTION 16 SHALL BE CONSTRUED SO AS TO NOT APPLY WHERE THE CLAIM, DEMAND, ETC. IS DUE TO NEGLIGENCE ARISING SOLELY FROM ACTIVITIES UNDER THE INDEMNIFIED PARTY'S CONTRACTUAL CONTROL OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTY TO THE EXTENT BARRED BY OHIO REV. CODE ANN. § 2305.31, AND THE PRECEDING INDEMNITIES SHALL BE DEEMED MODIFIED ACCORDINGLY WHERE APPLICABLE. THE INDEMNITIES PROVIDED IN THIS SECTION 16 SHALL REMAIN ENFORCEABLE TO THE EXTENT THAT THE ALLEGED NEGLIGENCE OR WILLFUL MISCONDUCT ARISES SOLELY FROM ACTIVITIES UNDER THE INDEMNIFYING PARTY'S CONTRACTUAL CONTROL AND WHEN LIABILITY IS NOT ATTRIBUTABLE TO THE INDEMNIFIED PARTY'S OWN NEGLIGENCE.

- (f) TO THE EXTENT THAT WEST VIRGINIA STATUTE §55-8-14 (AS AMENDED FROM TIME TO TIME AND ANY SUCCESSOR STATUTES OR LAWS THERETO, THE "WV ANTI-INDEMNITY ACT") IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE APPLICABLE TO A PARTICULAR TRANSACTION, AND TO THE FURTHER EXTENT ANY OF THE INDEMNITIES SET FORTH HEREIN WOULD BE VOID OR VOIDABLE UNDER, WITH RESPECT TO ANY WORK PERFORMED IN SUCH STATES, THEN SOLELY FOR PURPOSES OF SUCH WORK, THE FOREGOING INDEMNITY PROVISIONS OF THIS SECTION 16 SHALL BE AUTOMATICALLY REFORMED AND AMENDED TO PROVIDE FOR THE MAXIMUM INDEMNITY OTHERWISE ALLOWABLE AND ENFORCEABLE UNDER THE WV ANTI-INDEMNITY ACT OR OTHER APPLICABLE LAW.

17. INDEMNITY FOR INFRINGEMENT OF PATENT RIGHTS

CONTRACTOR SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO MISAPPROPRIATION OF TRADE SECRET OR PATENT, COPYRIGHT, OR OTHER PROPRIETARY RIGHT INFRINGEMENT, ARISING OUT OF, INCIDENT TO, OR IN CONNECTION WITH (i) DELIVERY OF GOODS OR PERFORMANCE OF WORK BY CONTRACTOR, (ii) COMPANY'S POSSESSION, USE OR SALE OF GOODS, EQUIPMENT OR MATERIALS FURNISHED BY CONTRACTOR, OR (iii) COMPANY'S PRODUCTION OF COPYRIGHTED WORKS INCORPORATING OR PREPARED ACCORDING TO DOCUMENTS OR OTHER TANGIBLE MATERIALS SUPPLIED BY CONTRACTOR AND COMPANY'S POSSESSION, MODIFICATION, USE, SALE, DISTRIBUTION, COPYING OR LICENSING OF SUCH DOCUMENTS, MATERIALS OR WORKS. CONTRACTOR shall not, however, be obligated to hold COMPANY harmless



against Claims for such infringement when the alleged infringement occurred as a result of the use by CONTRACTOR of a process, machine, article of manufacture, and/or composition of matter which was specifically requested IN WRITING to be used by COMPANY. CONTRACTOR shall pay promptly any judgments or decrees which may be entered against COMPANY in such suit, and in event of the grant of injunctive relief, the remedies set forth in Section 30 shall control.

18. **INDEMNITY FOR NON-PAYMENT OF CONTRACTOR'S OBLIGATIONS**

CONTRACTOR SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS, LIENS, ENCUMBRANCES AND EXPENSES OF ANY NATURE:

- (a) RESULTING FROM FAILURE OF CONTRACTOR OR ANY OF ITS SUBCONTRACTORS TO PAY ITS PERSONNEL FOR ALL BENEFITS AND OTHER EXPENSES APPERTAINING TO THEM, INCLUDING ALL WAGES, SOCIAL SECURITY BENEFITS, INDEMNITIES, COMPENSATION AND FRINGE BENEFITS OF WHATEVER NATURE REQUIRED BY CONTRACT WITH THEM OR BY APPROPRIATE GOVERNMENTAL AUTHORITIES OR AGENCIES; OR
- (b) RESULTING FROM CONTRACTOR'S OR ITS SUBCONTRACTORS' FAILURE TO PAY FOR ANY AND ALL EQUIPMENT, MATERIALS, SUPPLIES OR SUBCONTRACTED SERVICES ORDERED, USED OR OTHERWISE INCURRED BY OR FOR CONTRACTOR OR ITS SUBCONTRACTOR(S) IN CONNECTION WITH WORK OR INCIDENTAL THERETO.

19. **INDEMNITY FOR NON-PAYMENT OF TAXES**

EXCEPT AS PROVIDED IN SECTION 15, CONTRACTOR SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS FOR INCOME, EXCESS PROFITS AND OTHER TAXES ASSESSED OR LEVIED BY ANY COUNTRY, STATE OR ANY POLITICAL SUBDIVISION THEREOF HAVING JURISDICTION OVER WORK OR AGAINST COMPANY FOR OR ON ACCOUNT OF ANY PAYMENT MADE OR EARNED BY CONTRACTOR HEREUNDER. FURTHER, CONTRACTOR SHALL RELEASE, PROTECT, INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL TAXES ASSESSED OR LEVIED AGAINST OR ON ACCOUNT OF WAGES, SALARIES OR OTHER BENEFITS PAID TO CONTRACTOR'S PERSONNEL OR EMPLOYEES OF ITS SUBCONTRACTORS AND ALL TAXES, LICENSES OR FEES (INCLUDING PENALTIES AND INTEREST, IF ANY) ASSESSED OR LEVIED AGAINST OR ON ACCOUNT OF ANY PROPERTY OR EQUIPMENT OF CONTRACTOR.

20. **MUTUAL INDEMNITY OBLIGATION AND RIGHTS**



CONTRACTOR or COMPANY, as the case may be, shall promptly give to the other Party notice in writing of any Claim for which CONTRACTOR or COMPANY, or any member of their respective Groups, claims to be entitled to indemnification under this Agreement. Such notice shall state, with as much detail as is reasonably practicable, the facts and circumstances giving rise to such Claim and shall be given as soon as possible after the party seeking indemnity hereunder (the "Indemnatee") becomes aware of such Claim. The Party against whom such indemnity is sought (the "Indemnitor") shall, promptly after receipt of such notice, confer with the Indemnatee concerning the defense of any such Claim, but, subject to the remainder of this Section 20, the Indemnitor shall retain control of the conduct of such defense, including but not limited to the selection and management of counsel. Notwithstanding the foregoing, neither the Indemnatee nor the Indemnitor shall effect a settlement or compromise with respect to any such Claim without having obtained the prior written consent of the other, but if the Indemnatee does not consent to a settlement which the Indemnitor is willing to accept, then the Indemnitor's liability shall be limited to the amount for which the Claim could have been settled. The Indemnatee may, upon written notice to the Indemnitor and at the Indemnatee's cost and expense, select its own counsel to participate in, and be present during, the defense of any such Claim; *provided* that such counsel shall not take any action in the course of such Claim to prejudice the defense by the Indemnitor of such Claim.

21. **INSURANCE**

To support the indemnification obligations in this Agreement, but also as a separate and independent obligation, each Party agrees to procure and maintain, at its sole cost and expense, the policies of insurance in the minimum amounts which are specified in Exhibit B attached hereto.

22. **LIMITATION OF LIABILITY**

Neither Party shall be liable to the other and each Party hereby releases the other Party, for any indirect, special, consequential, exemplary and/or punitive damages arising out of or relating to this Agreement.

23. **SEARCH AND SEIZURE POLICY**

At all times while doing business for COMPANY, CONTRACTOR, its employees, agents, and/or representatives agree to be subject to and abide by the terms and conditions of COMPANY's Search and Seizure Policy included in Exhibit C hereto.

24. **ACCIDENT REPORTS**

In the event of an accident or emergency arising out of or during the course of CONTRACTOR's or any of its subcontractors' performance of services hereunder, CONTRACTOR shall



immediately notify COMPANY and shall prepare and furnish to COMPANY an incident report within five (5) days after each such accident or emergency. Upon request, CONTRACTOR shall furnish COMPANY with a copy of reports made by CONTRACTOR to CONTRACTOR's insurer or by any subcontractor of CONTRACTOR to its insurer; provided, however, that CONTRACTOR shall not be required to furnish copies of reports that are subject to attorney-client privilege.

25. RECORD RETENTION

CONTRACTOR agrees to retain all pertinent books, payrolls, and records relating to work or services performed hereunder (the "Records") for a period of seven years after final acceptance thereof. Following such seven-year period, CONTRACTOR may destroy the Records so long as CONTRACTOR notifies COMPANY in advance and provides COMPANY an opportunity to copy such Records at COMPANY's expense. During such period, representatives of COMPANY shall, at COMPANY's expense, have the right to audit and copy such records in CONTRACTOR's offices during CONTRACTOR's normal business hours.

26. CONFLICT OF PROVISIONS; ENTIRE AGREEMENT

In the event there should be any conflict between the provisions of this Agreement and any agreement or directive, Work Order, invoice, statement, or any similar instrument or directive, whether written or oral, between COMPANY and CONTRACTOR pertaining to the subject matter hereof, the provisions of this Agreement shall control. This Agreement, any attached Exhibits, and any and all supplements or amendments hereto, including Work Orders and Change Orders issued hereunder, constitute the sole and only agreement of the parties hereto and supersede any prior understandings or agreements between the parties hereto respecting the subject matter hereof, including any master service agreements executed prior to the date hereof.

27. ASSIGNMENT OF AGREEMENT

Neither this Agreement nor any retention of CONTRACTOR subject to this Agreement may be assigned or subcontracted by CONTRACTOR without the written consent of COMPANY. If CONTRACTOR assigns or subcontracts this Agreement in breach of this Section 27, this Agreement shall be terminated automatically 30 days after COMPANY is notified of or otherwise acquires the knowledge of such assignment unless COMPANY extends this Agreement in its sole discretion. The parties stipulate and agree that one of the purposes of this provision is to ensure that COMPANY has an opportunity to enter into a MASTER SERVICE AGREEMENT with any subcontractor, otherwise acceptable to COMPANY, to whom CONTRACTOR might desire to subcontract work CONTRACTOR has accepted and agreed to perform hereunder. Therefore, a remedy available to COMPANY for breach of this provision (available in addition to all remedies which would otherwise be available) shall be the recovery of any losses, costs, and expenses (including attorneys' fees) which are incurred by COMPANY Group, and against which losses, costs and expenses COMPANY Group would have been indemnified had COMPANY had a Master Service Agreement with each of CONTRACTOR's subcontractors identical to this Agreement.



28. **WAIVER OF TERMS**

No waiver by a Party of any of the terms, provisions, or conditions hereof, or of any breach hereof by the other Party, shall be effective unless said waiver shall be in writing and signed by an authorized officer of the waiving Party. Further, any waiver by a Party of any breach hereof by the other Party shall not be deemed a waiver of any future breach, whether or not of similar nature.

29. **MODIFICATION OF AGREEMENT**

Except for Exhibit C, which may be amended by the COMPANY in its sole discretion, no change, modification, extension, renewal, ratification, rescission, discharge, abandonment, or waiver of this Agreement, or of any of the provisions hereof, or any representation, promise, or condition relating to this Agreement shall be binding upon a Party unless made in writing and signed on its behalf by an authorized officer or representative of such Party.

30. **ENFORCEMENT OF RIGHTS**

It is understood and agreed that in the event either Party institutes suit to enforce any right or obligation against the other Party arising out of, or incidental to, this Agreement, then the prevailing Party shall be entitled to recover reasonable attorney's fees, court costs, and expenses related thereto.

31. **NOTICES**

All notices to be given with respect to this Agreement, as well as all correspondence pertaining to this Agreement, shall be in writing and shall be sent to COMPANY and to the CONTRACTOR, respectively, by hand delivery or registered or certified mail or by email during normal business hours. Such notices shall be effective when received. The address for notices to COMPANY shall be:

Tier One LLC
Attn: Management Team
2 Penn Center W, Suite 328
Pittsburgh, PA 15276
EMAIL: info@tier1rental.com

And, if to the CONTRACTOR, to such address as shall appear on the signature page hereof executed by the CONTRACTOR, or as shall be designated by the CONTRACTOR in writing to the COMPANY.

32. **CHOICE OF LAW; VENUE**

THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW RULES OR PRINCIPLES THAT WOULD DIRECT THE APPLICATION OF LAWS OF ANOTHER JURISDICTION. ALL WORK OR SERVICES PROVIDED PURSUANT TO THIS



AGREEMENT SHALL BE PERFORMED IN ACCORDANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS. BOTH PARTIES HERETO CONSENT TO THE EXERCISE OF JURISDICTION IN PERSONAM BY THE FEDERAL COURTS OF THE UNITED STATES LOCATED IN WASHINGTON COUNTY, PENNSYLVANIA OR THE STATE COURTS LOCATED IN WASHINGTON COUNTY, PENNSYLVANIA FOR ANY ACTION ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. ALL ACTIONS OR PROCEEDINGS WITH RESPECT TO, ARISING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, OUT OF, RELATED TO, OR FROM THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY SHALL BE EXCLUSIVELY LITIGATED IN SUCH COURTS DESCRIBED ABOVE HAVING SITES IN WASHINGTON COUNTY, PENNSYLVANIA AND EACH PARTY IRREVOCABLY SUBMITS TO THE JURISDICTION OF SUCH COURTS SOLELY IN RESPECT OF ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. IN ANY DISPUTE BETWEEN THEMSELVES, EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.

33. **SEVERABILITY**

If any provision herein is held to be partially or completely contrary to law and/or unenforceable, the Agreement shall be deemed to be amended to partially or completely modify such provision, or portion thereof, to the extent necessary to make it enforceable; or, if necessary, the Agreement shall be deemed to be amended to delete the unenforceable provision or portion thereof. In the event any provision is deleted, the remaining provisions shall remain in full force and effect. All obligations under this Agreement shall survive the expiration or termination of this Agreement to the extent required for their full observance and performance.

34. **GRATUITIES**

CONTRACTOR represents and warrants to COMPANY that CONTRACTOR, its subcontractors, and its and their employees, officers, directors, shareholders, or partners have neither paid, agreed to pay, nor will pay, any sums, kickbacks, or other such consideration to any director, officer, employee, agent or other representative of COMPANY, or to any Third Party in connection with this Agreement or the work or services to be performed hereunder, nor has any such payment or agreement for payment been requested or solicited by any such director, officer, employee, agent, representative or Third Party. CONTRACTOR hereby acknowledges and understands that any such payment or agreement would violate COMPANY's firm and undeviating policy against such payments, and that this representation and warranty constitutes a material inducement upon which COMPANY is relying in entering into and performing this Agreement. CONTRACTOR shall submit to COMPANY a certificate with respect to its compliance with this Section 34 annually.

35. **HEADINGS FOR CONVENIENCE**



Sections of this Agreement have been labeled for the convenience of the parties, and such headings are not to be utilized for the purpose of construing the meaning of any provision of this Agreement.

36. **NO THIRD PARTY BENEFICIARY**

Except as set forth in Section 16, this Agreement creates no rights or benefits to parties other than COMPANY and CONTRACTOR. Only a party hereto and its respective successors and assigns will have the right to enforce the provisions of this Agreement on its own behalf or on behalf of any of the COMPANY GROUP or CONTRACTOR GROUP, as applicable.

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IN WITNESS WHEREOF, the parties do hereby execute this Agreement effective as of the date first herein above written.

CONTRACTOR:

KSW Oilfield Rental, LLC

Contractor Company Name

6931 S. 66th E. Ave, Suite 105

Contractor Address

Tulsa, OK 74133

City, State Zip Code

918-933-6856

Telephone

By: Jill Pierce

Signature

Name: Jill Pierce

Print Name

Title: Controller

Print Title

Signed and accepted this 19 day of June, 2017

COMPANY:

TIER ONE LLC

By: Brian Adams

Name: Brian Adams

Title: Operations Manager

Signed and accepted this 19 day of June, 2017

Tier One LLC MSA Master



EXHIBIT A TO MASTER SERVICE AGREEMENT

FEDERAL CONTRACT PROVISIONS

CONTRACTOR shall fully comply with the following statutes and executive orders, as well as the regulations, orders, and rules promulgated thereunder where required by law, and such statutes and executive orders are hereby incorporated in this Agreement by reference as if fully set out: (1) Equal Opportunity Clause, 41 CFR 60-1.4 (applicable to all agreements or purchase orders in excess of \$10,000); (2) Affirmative Action Compliance Programs, 40 CFR 60-1.40 (applicable to agreements or purchase orders of \$50,000 or more and if CONTRACTOR has 50 or more employees); (3) Equal Employment Opportunity Reporting Requirements, 41 CFR 60-1.7 (applicable to agreements or purchase orders of \$50,000 or more and if CONTRACTOR has 50 or more employees); (4) Employment of the Handicapped, 41 CFR 60-741 (applicable to agreements or purchase orders of \$2,500 or more); (5) Employment of Disabled Veterans and Veterans of the Vietnam Era, 41 CFR 60-250 (applicable to agreements or purchase orders of \$10,000 or more); (6) Utilization of Minority Business Enterprises, 41 CFR 1-1.13 (applicable to agreements or purchase orders of \$10,000 or more); (7) Utilization of Small Business Concerns, 41 CFR 1-1.710-3 (applicable to agreements or purchase orders of \$10,000 or more); (8) Utilization of Labor Surplus Area Concerns, 41 CFR 1-1.805-3(a) (applicable to agreements or purchase orders of \$10,000 or more); (9) Minority Business, Small Businesses and Labor Surplus Area Subcontracting, 41 CFR 1-1.1310 2(b), 1-1.710-3(b), 1-1.805-3 (applicable to agreements or purchase orders of \$500,000 or more); (10) Clean Air and Water, 40 CFR 15.4 and 15.5, 41 CFR 1-1.2302 (applicable to agreements or purchase orders of \$100,000 or more).

CONTRACTOR certifies that it does not maintain, or provide for its employees, any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any locations under its control where segregated facilities are maintained. It further certifies that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The CONTRACTOR agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Agreement. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing area, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive, or that are in fact segregated on the basis of race, color, religion, sex, or national origin, because of habit, local custom, or otherwise. It further agrees that, except where it has obtained identical certifications from proposed subcontractors for a specific time period, it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 that are not exempt from the provisions of the Equal Opportunity Clause, that it will retain such certification in its files, and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certificates for specific time periods).



**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR
CERTIFICATIONS OR NONSEGREGATED FACILITIES**

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 that is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each subcontract, or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually). Note: The penalty for making false statements is prescribed in 18 U.S.C. 1001.



EXHIBIT B TO MASTER SERVICE AGREEMENT

Each Party agrees to carry and provide the following insurance throughout the entire term of the Agreement and to furnish the other Party an executed Certificate of Insurance for the same prior to its execution. Insurers and underwriters of each Party shall be satisfactory to the other Party, authorized to do business in the jurisdiction where the work contemplated in this Agreement is to be performed, and have A.M. Best rating of at least A- and financial rating of at least VII. If a Party does not carry or fails to maintain insurance as mutually agreed herein, such Party will be deemed to be self-insured in an amount equal to the amount of insurance carried by the other Party in compliance with this Agreement.

1. **Worker's Compensation Insurance**, written to cover the employees of CONTRACTOR in compliance with the state having jurisdiction over each employee, with the following endorsements and limits:

Endorsements

Basic Workers' Compensation Policy,
endorsed to provide:

Employers' Liability
Voluntary Compensation
Alternate Employer
Occupational Disease
Other States Insurance
Alternate Employer and Borrowed Servant

Limits

Statutory Limits (or, if no such
statutory limits, the combined
single limit per occurrence of
\$1,000,000)

Combined Single Limit per
Occurrence of \$1,000,000

Waiver of Subrogation and All States Endorsement

2. **Commercial General Liability Insurance**, written to include the following endorsements and limits:

Endorsements

Personal Injury
Bodily Injury
Products & Completed Operations
Broad Form Contractual Liability
Broad Form Property Damage
Premises
In Rem
Independent Contractors

Limits

Combined Single Limit per
occurrence of \$1,000,000



Waiver of Subrogation and COMPANY as an Additional Insured

*As referred to in this Exhibit B, "COMPANY" shall be defined as TIER ONE LLC, its subsidiaries, Affiliates, owned or controlled companies, interest owners, co-lessees, contractors (other than CONTRACTOR), and subcontractors, and it and their officers, directors, employees and agents.

3. **Commercial Automobile Liability Insurance**, written to include the following endorsements and limits:

Endorsements

Owned Vehicles
Non-owned Vehicles
Hired Vehicles
Form MCS-90 (if applicable)

Limits

Combined Single Limit per
occurrence of \$1,000,000

Waiver of Subrogation and COMPANY as an Additional Insured

4. **Excess Umbrella Insurance:**

CONTRACTOR shall provide comprehensive all risks liability insurance ("Umbrella Policy") with limits not less than \$5,000,000.

Waiver of Subrogation and COMPANY as an Additional Insured

All policies in which COMPANY is named as an Additional Insured shall include the following or similar "Other Insurance" Endorsement, with the term "COMPANY" defined as in the footnote to this Exhibit B:

Underwriters acknowledge the existence of liability and property damage insurance carried by COMPANY, and it is understood and agreed that, to the extent of the liability and indemnity obligations assumed by CONTRACTOR under the MASTER SERVICE AGREEMENT, the insurance provided by this policy shall be primary insurance for all assureds, and such other insurance carried by COMPANY shall not be called upon by these insurers for contributing, deficiency, concurrent, or double insurance or otherwise.

Any failure by CONTRACTOR to comply with any reporting provisions or Duties of the Insured provisions of the policy shall not affect coverage provided to COMPANY.



For each policy under which CONTRACTOR is an insured, whether described herein or not, CONTRACTOR agrees to waive and agrees to have its insurers waive any rights of subrogation they may have against COMPANY with respect to liabilities assumed hereunder by CONTRACTOR.

It is further agreed that each such policy, other than Workers' Compensation policies, shall name COMPANY as an Additional Insured with respect to liabilities assumed hereunder by CONTRACTOR. CONTRACTOR shall be solely responsible for deductibles required under such policies.

CONTRACTOR shall furnish, to COMPANY's satisfaction, a completed certificate of insurance evidencing insurance coverage prior to beginning work hereunder.

Each such insurance policy shall contain a provision obligating the insurer to give CONTRACTOR written notice of change or cancellation not less than thirty (30) days prior to the effective date of such change or cancellation. CONTRACTOR shall immediately notify COMPANY in writing of such change or cancellation.

CONTRACTOR agrees to submit a copy of its insurance policies or a complete copy of the Forms and Endorsements pages of policies referenced herein to COMPANY for inspection at any time. The foregoing Minimum Insurance Requirements are subject to change at the discretion of COMPANY.

INSURANCE TO BE PROVIDED BY COMPANY

Tier One LLC shall obtain and maintain insurance of the same types and in the same amounts as is required of CONTRACTOR above.



EXHIBIT C TO MASTER SERVICE AGREEMENT

Tier One LLC

Minimum Contractor Safety Requirements

Tier One LLC (hereinafter referred to as "COMPANY") stresses the importance of Safety and Safety Requirements. COMPANY will prohibit anyone from entering COMPANY work site who fails to comply with the Minimum Contractor Safety Requirements outlined herein (the "Standards"). COMPANY, through the use of safe work practices, personal protective equipment (PPE), safety meetings, and Job Safety Analyses (JSAs), emphasizes the importance of Safety at each COMPANY work site.

Please be advised that these Standards do not reduce or replace CONTRACTOR's responsibility to maintain a safe work environment for all persons, and regularly and repeatedly perform appropriate training and safety programs for its, and its subcontractors, and its and their employees and agents. CONTRACTOR must perform all work and services in accordance with all applicable safety regulations, precautions, and procedures, and shall employ all protective equipment and devices required by governmental authorities, or reasonably recommended by industry safety associations. CONTRACTOR shall take all necessary and appropriate precautions to safeguard its, and its subcontractors, and its and their employees and agents, COMPANY's employees and representatives, visitors, the general public, any public or private property, the environment, and natural resources with respect to any work or services to be performed for COMPANY.

SAFE WORK PRACTICES

COMPANY requires that CONTRACTOR convey these Standards to its subcontractors, and its and their employees, agents and visitors, and mandate compliance with these Standards at all times while at COMPANY work sites.

COMPANY prohibits the possession, transportation, use, or consumption of any controlled substances, drugs, or drug-related paraphernalia on or around any property, facility, aircraft, vehicle, or boat owned or used by COMPANY. (Possession and use of prescription medications with doctor's and user's name on container label and prescription date within one year is not prohibited by this policy.) COMPANY requires CONTRACTOR to have its own Comprehensive Substance Abuse and Alcohol Misuse Program. Strict compliance with these requirements is mandated while working on COMPANY work sites.

COMPANY prohibits the possession or consumption of alcoholic beverages on any property, facility, aircraft, vehicle, or boat owned or used by COMPANY, except where such possession or consumption is explicitly authorized by COMPANY for limited business or social functions.

COMPANY prohibits the possession of firearms, weapons, or explosives on or around any property, facility, aircraft, vehicle, or boat owned or used by COMPANY. (Transportation of



firearms for sporting activities or for personal protection in vehicles is not prohibited by this policy; provided the firearms are broken down, displayed, and handled in a manner that meets acceptable safety standards and complies with local, state, and federal statutes covering gun control.) Under no circumstances will any person have in his/her possession a firearm, weapon, or explosive while in an office, warehouse, or other COMPANY facility.

COMPANY expects CONTRACTOR to train its employees to recognize common hazards associated with their work tasks and CONTRACTOR must adhere to all Hazard Communication Standards as required by all applicable Federal, State, and Local Safety Regulations or industry safety standards.

All COMPANY employees, CONTRACTOR and its employees, agents or sub-contractors have "Stop Work Authority" for any unsafe or potentially unsafe situation. Any potential hazards identified must be reported immediately to a COMPANY representative and work stopped until the hazard can be properly understood and corrected.

COMPANY reserves the right to audit CONTRACTOR, including without limitation, its agents, sub-contractors, programs, policies, or procedures while work is being performed on COMPANY sites.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

CONTRACTOR is required to provide all applicable PPE for its employees.

The following PPE is required to be worn by all persons while on COMPANY work sites:

Clothing - Flame Resistant Clothing (FRC) must be worn at all times while on COMPANY work sites. COMPANY accepts only shirt and pant combinations and coverall FRC. FRC must be fully buttoned and/or zipped (no cotton showing) at all times.

Foot Protection - Steel-toed boots must be worn at all times. Please note that steel-toed tennis shoes are not allowed.

Head Protection - Each person in a work area must wear a hard hat secured by the chinstrap, if applicable.

Eye Protection - Each person must wear properly fitted safety glasses. Goggles, face shields, or other eye protection equipment may be required, based on the job-specific task.

Additional PPE Protection - Additional PPE may be required based on the task being performed. Consult additional safety resources such as Material Safety Data Sheets (MSDS) to determine if additional PPE is required. Additional PPE that may be required could include, but is not limited to, respiratory equipment, gloves, hearing protective gear, safety belts, lifelines, and others.

SAFETY MEETINGS



COMPANY requires that CONTRACTOR conduct safety meetings prior to starting work each day. Meetings should be documented and that documentation maintained at the work site.

JOB SAFETY ANALYSES (JSAs)

In order to help further identify workplace hazards, COMPANY recommends JSAs for any task. Any JSAs performed should be documented, signed by all parties/personnel involved, with documentation maintained at the work site.

JSAs are *required* for the following tasks:

- Hot Work
- Confined Space Entry
- SIMOPS (Multiple operations occurring simultaneously on the same work site)
- Heavy Lifts
- New Equipment Startup
- Adverse Weather Conditions

Hot Work - COMPANY prohibits any Hot Work (Welding, Cutting Torch, grinding or other spark or heat creating activity), unless an approved hot work permit has been issued by an authorized COMPANY representative, or such Hot Work is being performed in an area specifically designated or posted as an area for Hot Work, such as a welding shop.

Confined Space Entry - COMPANY prohibits Confined Space Entry unless an approved Confined Space Entry Permit has been issued by an authorized COMPANY representative.

Fall Protection - COMPANY requires that each CONTRACTOR follow all applicable Federal, State and Local Safety Regulations, and industry safety standards, when advisable, relative to fall protection when work is being conducted on elevated surfaces or in areas with the potential for falls. This includes, but is not limited to, safety belts, lifelines and lanyards, safety nets, and climbing devices.

Lock Out/Tag Out - COMPANY mandates that all applicable Federal, State and Local Safety Regulations and industry safety standards, when advisable, must be followed for working on or around Energized equipment, or when there exists a risk of electric shock; including, but not limited to, Lock Out/Tag Out procedures.

Demolition Work – A COMPANY representative must authorize demolition work prior to beginning any such work. Engineering plans should be developed if applicable to the scope of work.

SEARCH AND SEIZURE POLICY



COMPANY reserves the right, with or without notice, to lawfully and reasonably search any person, including without limitation, CONTRACTOR's and its subcontractors' employees, agents or visitors, along with their personal effects, prior to entry or departure from a COMPANY work site, facility, vehicle, aircraft, or boat. Methods used may include physical searches and, as appropriate, scheduled or random drug urinalysis screening. Infractions of this policy, including failure to submit to a search, will be grounds for disciplinary action, up to and including immediate discharge.

When appropriate, if any item is discovered through COMPANY searches, inspections or otherwise, which is deemed dangerous or harmful to life or property, law enforcement officials may be notified. CONTRACTOR's and its subcontractors' employees, agents or visitors not complying with this policy will be removed from COMPANY premises and not allowed to return.

REPORTING INCIDENTS

In the event of an accident or an emergency, CONTRACTOR shall immediately provide oral notification to COMPANY and shall prepare and furnish to COMPANY an incident report as soon as reasonably practicable, but not later than EIGHT (8) hours after each such accident or emergency. CONTRACTOR shall provide COMPANY with copies of all photographs, videotapes, audiotapes, and written or electronic documents associated with the incident.

All written reports shall be submitted to the onsite COMPANY representative or to the Environmental Health & Safety Department ("EH&S") department at the COMPANY's corporate offices via facsimile transmission to (xxx) xxx-xxxx or email to bsilva@app-lp.com

If CONTRACTOR cannot notify an on-site COMPANY representative, CONTRACTOR shall immediately notify Braulio Silva at 806-445-7675

COMPLIANCE

COMPANY strives to create a safe work environment for all who enter our work sites. COMPANY's safety policy is designed with that goal in mind. Therefore, all safety Standards will be enforced, and failure to follow these safety Standards while on a COMPANY work site may result in immediate dismissal.

Please feel free to contact COMPANY's Environmental Health & Safety Department at 806-445-7675 with any questions or concerns.



Contractor Acknowledgment and Agreement

I have received and read a copy of the Minimum Contractor Safety Requirements on the date set forth below. I understand the contents of the above Safety Requirements and further understand that I should consult with management regarding any questions not answered herein. I agree to the terms of the Minimum Contractor Safety Requirements and understand that this Acknowledgment will be retained in my agreement file.

JP
Initials

I agree that the obligations and restrictions set forth within the Minimum Contractor Safety Requirements are reasonable and necessary. I further agree to adhere to the restrictions and protections contained herein.

JP
Initials

KSW Oilfield Rental, LLC

Contractor Company Name

Jill Pierce

Contractor's Representative

Date 06/19/2017

Signature

Jill Pierce

Jill Pierce

Printed Name

Controller

Title

Tier One LLC's
Representative

Brian Adams

Date 6/19/2017

Signature

Brian Adams



**EXHIBIT D
TO MASTER SERVICE AGREEMENT**

WORK ORDER

The following supplemental description of the services and/or goods, equipment or facilities desired to be performed under the terms of this MASTER SERVICE AGREEMENT, is dated the _____ day of _____, 20____, between COMPANY and _____ ("Contractor"), is incorporated by reference thereto.

- (1) Job Site Location:
- (2) Description of the Work to be performed by CONTRACTOR:
- (3) CONTRACTOR will commence work within _____ days from the date of this Work Order when and as requested by COMPANY. Work is to be completed by _____.
- (4) Personnel Contractor is to Furnish and Qualifications:
- (5) Equipment, Services and Supplies Contractor is to Furnish:
- (6) Items to be Furnished by Company:
- (7) Compensation to be paid Contractor (day rates, mobilization and demobilization charges, reimbursables, tool rentals, and other charges as applicable):
- (8) Other:

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